HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.33836 of 1997

Dated 20th day of February, 2007

Between:

Y. Sukumar Reddy .. Petitioner

And

The District Collector, Ananthapur and two others .. Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare the Notification issued under Section 4(1) of the Land Acquisition Act by the 1st respondent by way of publication in Eenadu Telugu Daily, Ananthapur District Edition dated 28.11.1997 proposing to acquire the petitioner's land of an extent of Ac.2.13 cents in S.No.172-1B situated at Vepamanipeta Village, as arbitrary and illegal and consequently set aside the same.

The brief facts of the case are that the petitioner is the owner and possessor of an extent of Ac.7.28 cents of land in S.No.172-1B situated in Vepamanipeta village, Talupula Mandal, Ananthapur District. Out of this land, the Government already acquired Ac.1.75 cents in the year 1977 and the petitioner is left with only an extent of Ac.5.33 cents. Now, the grievance of the petitioner is that the 1st respondent issued a notification under Section 4(1) of the Land Acquisition Act (for brevity "the Act") proposing to acquire Ac.2.13 cents out of the remaining Ac.5.33 cents of land.

Heard the learned counsel for both the parties.

Though the learned counsel for the petitioner has put forth his contentions on various aspects, his bone of contention is that the petitioner is subjected to repeated acquisitions. The fact that on an earlier occasion an extent of Ac.1.75 cents were acquired for the purpose of house-sites is not denied. Even after acquisition of the land belonging to the petitioner, the impugned notification was issued proposing to acquire another Ac.2.13 cents of land belonging to him, which is in violation of Article 14 of the Constitution of India.

It is clear from the record that there are several lands available

in S.Nos.90, 91, 92, 94, 98, 108, 129, 142, 143, 144, 150, 169, 170, 153, 200, etc. Of course, the government denied it in their counter stating that no other suitable land is available. Maybe it is true, but still, this Court is of the view that the petitioner's land alone cannot be subjected to acquisition repeatedly, and it would amount to infringement of Article 14 of the Constitution of India. By resorting to such acquisitions, the State is imposing social burden on selected individuals and thereby violating the equality rule of Article 14. In matters relating to land acquisition, more particularly in a case of this nature, it is incumbent on the part of the Government to explain the unavoidable necessity of acquiring the petitioner's land only by showing that there are no alternative lands available for acquisition. When the counter is looked at keeping the above principle in mind, this Court is of the view that the counter is vague and it does not say that there are no other lands than the land belonging to the petitioner for acquisition and thus, the said acquisition is unavoidable.

In the light of the above, this Court is of the view that the Notification issued under Section 4(1) of the Act proposing to acquire the petitioner's land is definitely in violation of Article 14 of the Constitution of India, and hence, the same is liable to be quashed.

In the result, the writ petition is allowed quashing the Notification, dated 28.11.1997. No costs.

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20.02.2007

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